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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/671,486

09/29/2003

Lo-Pin Wang

WANG3195/EM

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7590

01/12/2005

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EXAMINER

PREVIL, DANIEL

ART UNIT

PAPER NUMBER

2636

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,486

Applicant(s)

WANG, LO-PIN

Examiner

Daniel Previl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-10 are presented for examination.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the ball received in the chamber must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hobson (US 6,329,927).

Regarding claim 1, Hobson discloses a whistle (col. 2, line 8) comprising: a whistle member 21 (col. 2, line 8) having a mouthpiece (chamber 24) at a front thereof (fig. 4, ref. 24), a chamber 24 therein (chamber start at 24) (fig. 4, ref. 24), a passage 21 (fig. 4, ref. 21) communicated with the chamber (fig. 4) and an outlet 26 at a sidewall of the chamber (fig. 4, ref. 26) and a light emitting device 12 (fig. 4, ref. 12) provided on the whistle member 21 (fig. 4, col. 2, lines 8-15; col. 3, lines 28-35), which has a lamp (fig. 2), a battery 14 (fig. 2) and a switch device (the circuit board 13 has a first electrical path that provides electrical continuity between a first pole of the battery) (col. 3, lines 39-42; col. 4, lines 1-3), wherein the lamp (fig. 2) is conducted with battery 14 (fig. 2) and the switch is provided at between the lamp and the battery to turn the lamp on or off (LED's causing the LED's to blink or flash) (fig. 2; col. 3, lines 28-42).

Regarding claim 3, Hobson discloses the lamp is a light emitting diode (fig. 2; col. 3, lines 27-36).

Regarding claim 5, Hobson discloses the whistle member 21 (fig. 4, ref. 21) is detachably provided with a cover (top of the whistle member 21) and between the cover and the whistle member is a room (start at threading means 23) (fig. 4).

Regarding claim 6, Hobson discloses the chamber of the whistle member is open at a lateral side thereof (fig. 4) and a board (threading means 23 associated with metal bar 27) (fig. 3) provided on the whistle member to seal the chamber (bar engages in powering condition) (col. 4, lines 4-16) and a cover is detachable on the whistle member covering the board and between the board and the cover is a room (fig. 4; col. 4, lines 4-23).

Regarding claim 7, Hobson discloses the whistle member has a recess in which the battery is mounted and a cover covering the battery (batteries 14 disposed within the first chamber 11) (fig. 2; col. 3, lines 56-57).

Regarding claim 8, Hobson discloses a switch device is provided on the cover (fig. 2; fig. 4; col. 4, lines 1-22).

Regarding claim 9, Hobson discloses the whistle member has a tube in which the lamp 12 is mounted (fig. 2).

Regarding claim 10, Hobson discloses the whistle member has hanger (battery 14) (fig. 4) which has an end thereof connected with the whistle member and the other end thereof connected with the tube (battery 14 has two ends; one end connected to the tube which is a circuit board 13 and the other end is connected to the whistle member) (fig. 4)

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hobson in view of Aguirre et al. (US 4,739,990).

Regarding claim 2, Hobson discloses all the limitations in claim 1 but fail to specify a switch button provided on the whistle member.

However, Aguirre discloses a button 64 provided on the whistle member 65 (fig. 7b; col. 5, line 36).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Aguirre in Hobson. Doing so would have provided the system with the capability of accessing quickly the device in case of sudden attack by pressing the button to blind momentarily the attacker or by pressing the button to produce a loud noise to scare off the attacker for the safety purposes as taught by Aguirre (col. 4, lines 27-28 and lines 57-61).

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hobson (US 6,329,927) in view of Gertler et al. (US 4,314,316).

Regarding claim 4, Hobson discloses all the limitations in claim 1 but fails to specify that a ball received in the chamber of the whistle member.

However, Gertler discloses a ball (element 28) (fig. 5) received in the chamber of the whistle member (fig. 5; col. 2, lines 61-64).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Gertler in Hobson. Doing so would have provided the system with the capability of varying the sound for communication purposes, so users could feel safer when using this system because it ensure against assailant as taught by Gertler (col. 1, lines 6-25).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wright (US 5,329,872) discloses all weather safety whistle and sound generator.

Mackovjack (US 5,897,457) discloses an athletic performance monitoring system.

Shepherd (US 5,816,186) discloses a whistle.

Schneider, Jr. (US 6,181,236) discloses sports whistle with audible and visual output signals.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Previl whose telephone number is (571) 272-

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2971. The examiner can normally be reached on Monday-Thursday. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Daniel Previtt
Examiner
Art Unit 2636

January 7, 2005